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ORIGINAL BEFORE THE ARIZONA CORPORATION COI

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- 3 MIKE GLEASON, Chairman
- 4 WILLIAM A. MUNDELL, Commissioner
- 5 JEFF HATCH-MILLER, Commissioner
- 6 KRISTIN K. MAYES, Commissioner
- 7 GARY PIERCE, Commissioner

2008 JUL 31 P 12:45

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUL 31 2008

DOCKETED BY	<i>mm</i>
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**RE: MOTION REQUESTING
PROCEDURAL CONFERENCE FOR THE
PURPOSE OF ADDRESSING THE LACK
OF FULFILLING JUDGE STERN'S
INSTRUCTIONS.**

DOCKET NO. W-02824A-07-0388

**IN THE MATTER OF THE APPLICATION OF ICR WATER USERS ASSOCIATION, AN
ARIZONA CORPORATION, FOR A DETERMINATION OF THE CURRENT FAIR VALUE
OF ITS UTILITY PLANT AND PROPERTY AND FOR INCREASES IN ITS RATES AND
CHARGES FOR UTILITY SERVICE.**

As noted by Judge Stern in the Reporter's Transcript of Proceedings of April 16, 2008, ICRWUA, on April 15, 2008, "requested a continuance of the evidentiary portion of this proceeding in order to continue to have discussions between the parties and to develop a procedural schedule and resolve issues raised by the compliance issues that had been alleged by Mr. Taylor with respect to the Commission's Decision 64360 in 2002."

Under questioning by Judge Stern with regard to scheduling, Mr. Metli stated that he felt that it would be possible to come to an agreement, be able to set a meeting with members, file something with the Commission, including an amended agreement, testimony and revised schedules by May 9. Mr. Metli then anticipated Staff and interveners filing, addressing the agreement two weeks later, May 23, with a hearing to be held after June 9. With regard to resolving issues, Judge Stern stressed that there are four parties involved; ICRWUA (Inscription Canyon Ranch Water Users Association), Mr. Taylor, Staff and the

1 TRGC (Talking Rock Golf Club). Mr. Taylor and Staff will have to address any resolution
2 proposed by ICRWUA and TRGC. As stated by Judge Stern, "You (ICRWUA) can't just say
3 we are the water company, and (TRGC) we are the golf club, and we are going to make an
4 agreement."

5
6 Almost four months have passed since the hearing of April 16, and to my knowledge
7 ICRWUA and TRGC have failed to reach an agreement. Although I have requested to be
8 included in these discussions, ICRWUA has refused my request. In addition, ICRWUA has
9 not, to the present time, provided me with any information on what their time frame is for
10 reaching an agreement with TRGC. ICRWUA and TRGC reached a non-specific, non-
11 binding Letter of Understanding (LOU) on April 18, 2008. Although this document was
12 provided to me, ICRWUA refused to enter into any discussions for addressing my concerns
13 and objections to the LOU. My objections were filed to docket control on April 19, 2008.
14 Please note, the ICRWUA took it upon themselves to present their LOU to the ICRWUA
15 membership on June 3, 2008.

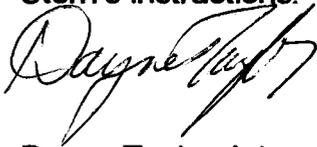
16
17 At this June 3 meeting ICRWUA took a written survey of its members as a means to
18 establish the membership understanding of the issues and their opinion of the LOU. The
19 then-president promised that results would be mailed to all shareholders; however, results
20 have never been released, and now the new president has said as of the July 22, 2008
21 ICRWUA Board meeting that they will be shredded. The failure of the ICRWUA Board to
22 provide the results of the survey to its membership strongly suggests that the survey results
23 do not support the LOU, and therefore the desire of the Board's president to shred the
24 survey. In all fairness to the membership of ICRWUA and particularly to those members
25 that attended the meeting (approximately 200) and listened to the Board's presentation of
26 the LOU and its benefits, the results of the survey should be made available to all.

27
28 From January thru May 2008, ICRWUA has incurred legal expenses with regard to the rate
29 case in excess of \$124,000 while its net cash flow from January thru June 2008 has been
30 approximately \$21,000. Legal costs associated with the Rate Case for June and July have
31 to be significant, perhaps in the range of another \$80,000. It has been stated by the
32 ICRWUA Board that I, as Intervener, have been the cause of these legal expenses that
33 ICRWUA has incurred; however, the shareholders (including me) have not been provided

1 with any information regarding the cause or source of these excessive costs. I would
2 expect that most, if not all of the costs, have resulted from negotiations between Harvard
3 and the ICRWUA Board to arrive at an agreement that they alone believe can get passed
4 and will resolve the issues.

5
6 Since the April 16 hearing, there have been two meetings: May 20 was a small group in
7 Prescott of ICRWUA shareholders along with one ICRWUA Board member and Counsel for
8 ICRWUA, Robert Metli. A May 29 meeting was held in Phoenix and included all four parties
9 discussing the ramifications regarding the LOU. No resolution was reached because
10 Decision 64360 was again not honored. Further delay prolongs the closure of this matter
11 and keeps the clock running for unsubstantiated legal fees.

12
13 Given the continuing and excessive growth in legal costs being incurred by the ICRWUA
14 Board—with no end in sight—it is imperative that the ICRWUA Board be required to file a
15 schedule without further delay in order to protect ICRWUA members. It is also imperative
16 that the Board file a framework for an agreement among the parties to settle all the
17 outstanding issues related to Commission Decision 64360 and this rate case. Therefore, I
18 am petitioning the court to direct all parties to participate in a procedural conference to be
19 held no later than August 8, 2008 for the purpose of addressing the lack of fulfilling Judge
20 Stern's instructions.

21 

22
23 Dayne Taylor, Intervener
24 13868 North Grey Bears Trail
25 Prescott, AZ 86305

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27

1 **Original and thirteen (13) copies** of the
2 foregoing were mailed this 30th day of
3 July, 2008 to:
4
5 Docket Control
6 Arizona Corporation Commission
7 1200 West Washington Street
8 Phoenix, Arizona 85007
9
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12
13
14
29

15 **COPY** of the foregoing mailed this 30th day of
16 July 2008 to:
17
18 Robert Metli
19 Snell & Wilmer, L.L.P.
20 One Arizona Center
21 400 East Van Buren Street
22 Phoenix, AZ 85004-2202
23 Attorney for ICRWUA
24
25 Jay Shapiro
26 3003 North Central, Suite 2600
27 Phoenix, AZ 85012-2913
28 Attorney for Talking Rock Golf Club